

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-532-W/S - ORDER NO. 94-479
MAY 23, 1994

IN RE: Application of Pinebrook of Spartanburg) ORDER
 for Approval of an Increase in Rates) GRANTING
 and Charges for Water and Sewer Service) RECONSIDERATION
 Provided to its Customers in its Service)
 Area.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Reconsideration (Petition) filed by Pinebrook of Spartanburg (Pinebrook or the Company) requesting reconsideration of our Order No. 94-323, issued on April 13, 1994. Order No. 94-323 granted Pinebrook a portion of its requested increase in its rates and charges for water and sewer service.

First, Pinebrook alleges that the Commission's decision in Order No. 94-323 was arbitrary and capricious and an abuse of discretion which was not supported by the evidence. Pinebrook asserts that the testimony established that Mr. Hellams provided service and repairs to the system without charge to the customer and without receiving a salary or management fee from Pinebrook. Pinebrook alleges that the Commission did not consider the contributions of Mr. Hellams in reaching its decision.

It is interesting to note that Pinebrook did not request a salary or management fee for Mr. Hellams in the rate case, a point

acknowledged by Pinebrook in its Petition. The Company now attempts to assign error to the Commission for not including costs associated with a management fee or salary in rates. The Commission disagrees with this proposition. The burden of proving expenses in a rate case lies with the applicant. No costs or expenses were designated or allocated by the Company for the work provided by Mr. Hellams. Pinebrook had obviously not charged this work to expenses during the test year. Further, the Company did not object to any particular accounting adjustment adopted by the Commission in Order No. 94-323. Therefore, the Commission finds this allegation meritless.

Pinebrook also asserts that the Commission Staff, by its audit and its Staff Report in this Docket, "recognized the need for the Utility's rate increase to support an operating level of positive return to stay in business." See, Petition for Reconsideration, p. 2. Pinebrook alleges that the Commission did not give due consideration to the Staff Report which found Pinebrook to be in compliance on Staff's "Business Office Compliance Review Report."

The Company apparently misunderstands the purpose of the Staff Report. The Staff Report provides the Commission with an objective audit of a utility's operations and of the accounting books and records. The Staff report is presented as evidence in a case just as any other competent evidence received in the hearing. However, the Staff Report does not in and of itself "support an operating level" as the Petition asserts. The Commission finds

this allegation without merit.

Next, Pinebrook alleges that the Commission erred in finding a (3.81%) operating margin is appropriate in this proceeding. Pinebrook states that the Commission's operating margin theory is inadequate, and further, that the Commission erred in not adopting a rate of return methodology for regulation. Pinebrook further states the Commission's Order is confiscatory as it denies Pinebrook a fair rate of return on its operations and investments and that the continued success of the Pinebrook Mobile Home Community is placed in jeopardy without an adequate rate of return.

The Commission has authority to regulate the rates of water and sewer companies. Within that authority the Commission has the discretion to determine the appropriate method of regulation. In its discretion, the Commission has determined that, at least for present purposes, it will regulate Pinebrook's rates by establishing a fair and reasonable operating margin. The Commission has traditionally regulated water and sewer companies on the basis of operating margin, and the Company did not request that the Commission deviate from its usual method during the case. Therefore, the Commission concludes there has been no error at law by refusing to regulate the Company's rates by establishing a rate of return.

However, while the Commission finds most of the allegations of Pinebrook's Petition non-meritorious, the Commission will grant reconsideration in this matter. Specifically, the Commission will

reconsider the negative operating margin. The Commission would note that a negative operating margin does not necessarily mean that a company is not earning a fair rate of return on its operations and investments. The Commission takes judicial notice that it has previously granted negative operating margins in rate cases. See, Order No. 92-140, dated March 2, 1992, Docket No. 90-781-W/S, which granted a negative operating margin of (108.74%), and Order No. 92-114, dated February 27, 1992, Docket No. 91-041-W/S, which granted a negative operating margin of (51.91%).

While Commission precedent allows granting a negative operating margin, the Commission must decide each case on its individual merits. Upon reconsideration, the Commission determines that in this case a negative operating margin could work a hardship upon the Company. In determining any case, the Commission must balance the competing interests of the Company to earn a fair and reasonable operating margin with that of the consumer to receive service at a fair and reasonable price.

On reconsideration, the Commission once again considered the Company's revenue requirements, the Company's proposed price for water and sewer service, and the quality of the water and sewer service. The Commission also re-examined the testimony, including Staff witness Sharon Scott, who testified that the combined operations of the Company after adjustments resulted in a negative operating margin of (157.14%). Ms. Scott further testified that the effect of the proposed increase would result in a 49.24%

operating margin for Pinebrook's combined operations. The Commission also reviewed the testimony of Staff witness William O. Richardson. Mr. Richardson testified that the Company's proposed rates would result in an increase in revenues of \$29,088, or 533.92%, for combined operations. Mr. Richardson also testified that the average customer's water and sewer bill would increase from \$5.12 to \$40.00, or an increase of 681.25%.

By applying the principles of sound rate structure, as well as trying to balance the competing interests of the Company and the customer, the Commission determines on reconsideration that an operating margin of 6.38% is just and reasonable. In order to have the opportunity to earn a 6.38% operating margin after interest, Pinebrook will need to produce \$15,262 in total operating revenues. The following Table reflects an operating margin after interest of 6.38%:

TABLE A
OPERATING MARGIN

AFTER RATE INCREASE
(APPROVED HEREIN)

Operating Revenues	\$ 15,262
Operating Expenses	14,326
Net Operating Income	\$ 936
Customer Growth	37
Total Income for Return	973
Operating Margin	6.38%
(After Interest)	

The Commission is aware of the impact on the customers by granting reconsideration in this matter. However, the Commission believes that Pinebrook has provided sufficient and reasonable

justification for an increase in charges. Based on the considerations enunciated in Bluefield, Hope, and Seabrook Island, as set forth in Order No. 94-323, and on the fundamental criteria of a sound rate structure as stated in Principles of Public Utility Rates, as stated in Order No. 94-323, the Commission determines that reconsideration should be granted. Therefore, the Commission finds an appropriate operating margin of 6.38% is just and reasonable and is appropriate under the circumstances revealed at the hearing.

Pinebrook also alleges that the Commission erred by failing to make a comparison of the proposed Pinebrook rates with the rates charged by other utilities in the area. The Commission finds this assertion to be totally without merit. Utility rates are determined on a case-by-case basis and are determined by the facts presented for each particular utility. It is inappropriate for rates to be determined by a comparison to the rates charged by other utilities. Therefore, the Commission determines the allegation concerning a comparison with other utilities' rates is without merit.

Pinebrook also alleges error based on its assertion that Pinebrook's 1993 expenses were over \$28,000, while its income for the same period was \$5,900. The test year used in this case was the twelve month period ending December 31, 1992. This test year was proposed by Pinebrook and adopted by the Commission. Pinebrook makes this allegation based on the language from Order No. 94-323 which states "the Commission will consider adjustments for any

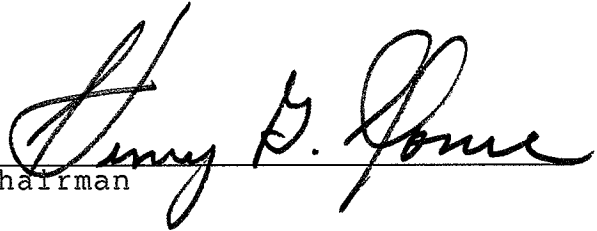
known and measurable and out-of-test year charges and expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year." Order No. 94-323, p. 7, citing Southern Bell Telephone & Telegraph Company v. The Public Service Commission of South Carolina, 270 S.C. 490, 244 S.E. 2d 278 (1978). This allegation is totally without merit as the quoted language refers to an adjustment to a test year expense which is known and measurable; it does not refer to the total income and expenses of a period outside of the test year as Pinebrook proposes.

IT IS THEREFORE ORDERED THAT:

1. The request of Pinebrook of Spartanburg for reconsideration is granted, and the schedule of rates and charges attached hereto as Appendix A are hereby approved for service rendered on or after the date of this Order. This schedule is deemed filed with the Commission pursuant to S.C. Code Ann. §58-5-240 (1976), as amended.
2. Should the approved schedule not be placed in effect until three (3) months from the effective date of this Order, the schedule shall not be charged without written permission from the Commission.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

APPENDIX A

PINEBROOK OF SPARTANBURG
100 DAYTONA DRIVE #1
SPARTANBURG, S. C. 29303
(803) 578-0823

FILED PURSUANT TO:

DOCKET NO. 93-532-W/S

ORDER NO. 94-479 (ON RECONSIDERATION)

EFFECTIVE DATE: MAY 23, 1994

RESIDENTIAL SERVICE

(1 UNIT = 750 GALLONS = 100 CU. FT.)

MONTHLY WATER SERVICE

FIRST 4 UNITS (3,000 GALLONS).....\$7.00
ALL OVER 4 UNITS.....\$2.00 PER UNIT

MONTHLY SEWER SERVICE

FIRST 4 UNITS (3,000 GALLONS).....\$7.00
ALL OVER 4 UNITS.....\$2.00 PER UNIT